

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7045 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

K V VYAS, METER READER

Versus

SUPERINTENDING ENGINEER (O&M)

Appearance:

MR AN PATEL for Petitioners

MR MD PANDYA for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/09/97

ORAL JUDGMENT

#. The petitioners, two in number, employees of the respondent-Board filed this Special Civil Application and prayers have been made for direction to the respondents to absorb them as Clerks instead of Meter readers from the date of their appointment as Meter Readers, with all consequential benefits such as pay, seniority, promotion etc.

#. It is not in dispute that the petitioners were taken as apprentice trainees by the Board and after successful completion of their apprentice period, they have been absorbed on the post of Meter Reader. The petitioners No.1 and 2 have undergone training from 3.8.77 to 2.9.78 and 22.3.77 to 23.3.78 respectively. They were given appointment as Meter Readers under the orders dated 19th October 1979 and 27th March 1980 both of them have been appointed as Meter Readers instead of appointing them as Clerks.

#. This petition has been filed by the petitioners before this Court on 14th October 1988, i.e. after about nine years from the date of appointment of petitioner No.1 as Meter Reader and eight years from the date of appointment of petitioner No.2 as Meter Reader. This petition has been contested by respondents by filing a reply to the same.

#. The learned counsel for the petitioners contended that the Board has acted highly arbitrarily in giving appointments to some of the apprentices as Clerks, the post carrying higher pay scale than the post of Meter Readers.

#. On the other hand, the learned counsel for the respondent-Board submitted that the appointment in the regular cadre has to be given to the apprentices as per their merits in different cadres where posts are available. In the cadre of clerks, the appointments were given to those apprentices who have secured 69% or above marks. However, the learned counsel for the respondents accepted that for a particular period, this requirement of minimum percentage has been reduced to 60% and above but both the petitioners were having less than 60% marks and as such, they were not absorbed in the cadre of Clerks. They have been given appointments on the basis of their merits, in the cadre of Meter Reader which the petitioners have voluntarily accepted without making any grievance and after so many years, they have come up before this Court.

#. I have given my thoughtful considerations to the submissions made by learned counsel for the parties.

#. The petitioners have failed to give out any satisfactory explanation for this delay in approaching this Court, but still as I find that the petitioners have no case on merits, I do not consider it appropriate to dismiss this petition on this ground only. The

apprentices are to be absorbed in the regular cadre by the Board and they all cannot be absorbed in one cadre. Availability of the posts is important and it is not possible that in one cadre all the apprentices be absorbed on the same post. So in the case of absorption of apprentices in different cadres which may have different posts also, a reasonable criteria has to be laid down and in the present case, a reasonable criteria in consonance with Articles 14 & 16 of the Constitution has been laid down. The absorption of apprentices on the basis of their merits is the best, foremost and reasonable criteria for absorption in different cadres. In view of this fact, even if it is taken that for certain period, the candidates, the apprentices who are having merit percentage of 60% or above have been taken, still the petitioners have no case for their absorption in the cadre of Clerks as their percentage in merit is less than 60%. This Special Civil Application is wholly misconceived.

#. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court, stands vacated. No order as to costs.

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(sunil)